



## **10 ADMINISTRATION**

*Effective: 6/1/96*

### **10.51 Civil Rights: Nondiscrimination/Equal Opportunity**

*Revised: 08/07/06*

**POLICY:** The WIC Project and Farmers' Market Nutrition Program (FNMP) must operate in accordance with Federal policy which does not permit discrimination based on race, color, national origin, sex, age, or disability. Criteria or methods of administration which have the effect of subjecting individuals to discrimination because of the individual's race, color or national origin must not be used unless specifically required by law, such as age factors.

**BACKGROUND:** Local projects must comply with the following: Title VI of the Civil Rights Act of 1964 (race, color, and national origin), Title IX of the Education Amendments of 1972 (sex), Section 504 of the Rehabilitation Act of 1973 (handicapped individuals), Age Discrimination Act of 1975 (age) and other provisions listed in the WIC Project Grant Agreement which prohibits discrimination based on sexual orientation and religion. In addition, the Wisconsin Fair Employment law also prohibits employee discrimination based on national origin (ancestry), sexual orientation, arrest or conviction record, marital status, military participation, or religion (creed).

This policy reflects Civil Rights Compliance and Enforcement – Nutrition Programs and Activities FNS Instruction 113-1, November 8, 2005. Website:  
<http://www.fns.usda.gov/cr/crregulation.htm>

#### **PROCEDURE:**

##### **A. NOTIFICATION OF RIGHTS**

Local projects must notify participants and applicants of their rights and responsibilities, their protection against discrimination, and the procedure for filing a complaint.

1. The “And Justice for All” poster (PPH 4094) must be prominently displayed in all WIC clinic waiting rooms and other areas frequented by participants and applicants, including satellite clinics. The nondiscrimination statement and procedure is in both English and Spanish.
2. The State developed “WIC Rights and Responsibilities” form (DPH 4161 and 4161S) informs participants and parents of a participant of their rights and responsibilities. A copy is in each WIC Folder.



3. Effective methods must be implemented for notifying persons with Limited English Proficiency (LEP) of their right to language assistance and at no cost. For more information, refer to the Guidance document at the end of the policy.
4. The nondiscrimination statement notifies all participants, potential applicants, farmers, vendors, health care providers, the general public and other persons working with WIC internally and externally of nondiscrimination bases and the discrimination complaint procedure.

## **B. NONDISCRIMINATION STATEMENT**

1. The nondiscrimination statement is required on all WIC materials (both State and local project-developed materials) for public information, public education, or public distribution. These materials include, but are not limited to, forms, publications, contracts, agreements, newsletters, advertisements, outreach materials, home page of website, lists of WIC vendors and Farmers' Markets, appointment reminders, handouts, referral materials, leaflets, and brochures that identify or describe the WIC Program. The type size should be the same as the surrounding text. To be effective, the statement must be legible, therefore, not in a type size too small to be read.
  - a) The statement in English is "In accordance with Federal law and U. S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (800) 795-3272 or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer."
  - b) The statement in Spanish is "De acuerdo a lo establecido por las leyes Federales y el Departamento Agricultura de los EE. UU. (USDA siglas en inglés), se prohíbe a este organización la discriminación por raza, color, origen nacional, sexo, edad o impedimentos de las personas. Para presentar una queja sobre discriminación, escriba a USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SE, Washington, DC 20250-9410 o llame al (800) 795-3272 o (202) 720-6382 (TTY). USDA es un proveedor y empleador que ofrece oportunidad igual a todos."
  - c) The statement in Hmong is "Rawsli Tseemhvw kevcai thiab U.S. Department of Agriculture li txojcai, lub koomhaum no muaj kev txwv tsis pub kom muaj txojkev uas saib tsis taus no los raug leegtwg li txawm hais tias yuav yog haivneeg twg, nqaij tawv txawv, nyob lub tebchaw twg tuaj,



pojníam/txivneeg, lub hnuv nyoog, lossis kev xiam-oob-khab. Yog koj tsis txaus siab hais txog qhov uas lawv saib tsis taus koj, sau ntawv mus cuag USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 lossis hu rau (800) 795-3272 / (202) 720-6382 (TTY). USDA yog ib lub tuamtxhab uas tsis xaiv ntsejmuag thiab muaj kev vajhuam sibluag rau sawvdaws.”

## 2. EXCEPTIONS

- a) Current supplies of materials containing an old statement, or no statement, may be depleted. The nondiscrimination statement must be printed on all new materials.
  - b) Forms used in determining eligibility that are only used by local agency staff (not for the public), i.e., growth grids, do not need the statement.
  - c) Nutrition education and breastfeeding promotion and support materials that strictly provide a nutrition message with no mention of the WIC Program are not required to include the nondiscrimination statement.
  - d) When the material is too small to permit the full statement, the short statement may be used. Print this statement in the same type size as the surrounding text. Examples of small items include a size of 3 inches by 5 inches, church bulletin announcements or newspaper ads. The short statement in English is “This institution is an equal opportunity provider.” The short statement in Spanish is “Esta institución es un proveedor que ofrece oportunidad igual a todos.” The short statement in Hmong is “Lub chaw no yog ib qhov chaw pab cuam muab vaj huam sib luag.”
- (1) The full statement is not required to be printed on promotional items that identify the WIC Program such as cups, buttons, magnets, pens and other items that are impractical to print on because of the size or configuration of the item. In addition, recognizing that Internet, radio and television public service announcements are generally short in duration, the nondiscrimination statement does not have to be read in its entirety. Use the statement, “The WIC Program is an equal opportunity provider” to meet the nondiscrimination requirement. Print this statement in the same type size as the surrounding text. The short statement in Spanish is “WIC es un proveedor que ofrece oportunidad igual a todos.” The short statement in Hmong is “WIC yog ib qhov chaw pab cuam muab vaj huam sib luag.”



### **C. REQUIRED ASSESSMENT OF LANGUAGE NEEDS**

1. For each applicant, it is required to enter ethnicity data (required to be collected first), race data, and language challenge data, as applicable, into ROSIE. Self-identification by the applicant is the preferred method. Staff may not “second guess,” or in any other way change or challenge a self-identification made by the applicant unless the declaration is obviously false. When the applicant declines to self-identify, staff must enter race or ethnicity data based on observation and staff determination must be noted in the comments box in ROSIE. The applicant should be informed that a visual identification of his or her race and ethnicity will be made and recorded in the ROSIE.

### **D. RECOMMENDED ASSESSMENT OF LANGUAGE NEEDS**

It is recommended that the language needs of the population be assessed at least annually to ensure meaningful access. This assessment should lead to services that are both necessary and reasonable.

1. Identify the non-English languages that are currently or likely to be encountered in the project service area and estimate the number of LEP persons that are eligible for services and who are likely to be affected by the WIC Program. Include the LEP parent(s) or guardian(s) of children. Sources of information include: the most current Civil Rights Compliance Plan submitted by the county/WIC Project to the Department of Health and Family Services Affirmative Action/Civil Rights Compliance Office; county census data; participant data from participant files; data from school systems, religious organizations, community agencies and organizations; legal aid entities; and Department of Health and Family Services Affirmative Action/Civil Rights Compliance Office. The WIC Program Operations Coordinator also has census data by county.
2. Identify the stations at the WIC clinic where language assistance is expected to be needed.
3. Identify the resources that will be needed to provide effective language assistance, including the location and availability.
4. Identify the arrangements that must be made to access these resources in a timely manner (e.g., at a time and place that avoids the effective denial or delay of the service, benefit, or right). Follow the processing standards for appointments in Policy 2.2. Determine how staff should obtain interpreter and translation services, respond to LEP callers and those who make in-person contact, and respond to written communications from LEP persons.



5. Evaluate if existing assistance is meeting the needs of the LEP persons in the service area.

#### **E. INTERPRETATION, TRANSLATION AND ACCOMMODATIONS**

To ensure meaningful access, local projects must take reasonable steps to provide assistance to applicants and participants during the application process, in receipt of services, and in the processing of complaints or appeals, at no cost. Assistance may include resources for individuals with hearing, vision, or speech impairments, and language translation or interpretation services. Local projects are required to provide language assistance to people with limited English proficiency who could not gain meaningful access to services without other language assistance. Refer to Guidance at the end of the policy for more information about qualified translators and interpreters and cost-effective strategies.

1. Sources of oral language interpretation. Language assistance must result in accurate and effective communication for Limited English Proficient participants.
  - a) It is recommended that the project develop policies and procedures for the interpreter. Agency policies and procedures may be suitable. Consider establishing a glossary of terms related to the WIC Program, health and nutrition.
  - b) Interpreters must be available within a reasonable period of time during hours of service to avoid undue delay of services. It is permissible to set aside specific clinic time(s) or day(s) to serve special populations that need a language interpreter. However, if a member of the special population group cannot come in at this time, arrangements must be made to serve that person during regular service hours. People cannot be forced to only come on the day(s) or time(s) the interpreter is scheduled to be present since this would be segregation based on national origin, which is an impermissible form of discrimination.
  - c) Hire bilingual staff or hire interpreters who are trained in the skill of interpreting and demonstrate competence as interpreters. The WIC Program has trained bilingual WIC staff as Competent Professional Authorities (CPAs).
  - d) Contract with an outside interpreter service for trained and competent interpreters. It is preferable to hire those who understand the WIC Program and can interpret terminology used in the WIC Program. If the interpreter does not have this knowledge, they should be trained after hiring.



- e) Arrange for services of voluntary community interpreters who are trained in the skill of interpreting and demonstrate competence as interpreters. They must understand their obligation to maintain participant confidentiality.
  - f) Arrange/contract for the use of a telephone language interpreter service. For more information about the telephone interpreter services, refer to the Guidance document at the end of the policy.
  - g) Use of friends or family members as interpreters is strongly discouraged. It is unacceptable to use minor children (<18 years of age) as interpreters. The agency may expose itself to liability under Title VI if it requires, suggests, or encourages an LEP person to use friends, minor children, or family members as interpreters. This could compromise the effectiveness of the service, breach confidentiality, or result in reluctance on the part of individuals to reveal personal information critical to their situation and services. Refer to the Guidance document at the end of the policy.
- (1) In rare unforeseen emergency situations, the WIC project may not be able to offer the services of an interpreter and the temporary use of a family member or friend as interpreter may be necessary, if the applicant or participant chooses to use the family member or friend as an interpreter
  - (2) A family member or friend may interpret to set up an appointment.
  - (3) If the person declines free interpreter services and requests the use of a family member or friend, the agency may respect their wishes to use an interpreter of their own choosing if the use of this interpreter would not compromise the effectiveness of services or violate the LEP person's confidentiality. Other issues include competence, appropriateness and conflict of interest.
    - (a) WIC staff must inform the WIC applicant/participant that the interpretation service is at no cost.
    - (b) Staff should document the offer of an interpreter and refusal for one in the LEP person's file. A waiver form for the participant and for the family member or friend to sign prior to interpreting is required per Policy 10.14.
    - (c) The staff should have a trained interpreter observe the interpretation to ensure that effective and accurate interpretation actually occurred. In cases where a family member or friend is being used to interpret and interprets inaccurately, the hired interpreter should immediately bring this to the attention of the WIC staff. WIC staff would determine the



next step to take. The waiver should include the provision of the interpreter being present and the action that will occur if inaccurate interpretation is heard.

2. The project must ensure that written materials are translated into the non-English language of each regularly encountered LEP group eligible to be served or likely to be directly affected by the WIC Program. These include applicants, participants and their LEP parent(s) or guardian(s). The analysis of needed language services may find WIC-eligible populations that are being under-served because of existing language barriers. In Wisconsin, the most encountered groups are Spanish and Hmong. For more information, refer to the Guidance document at the end of the policy and Chapter 1 for definitions.
  - a) It is particularly important that vital documents be translated. Vital documents include: applications, appointment reminders/list of what to bring to the appointment, non-discrimination statement and discrimination complaint form, consent forms, letters or notices containing important information regarding program participation (notices of eligibility criteria, rights and responsibilities, any thing requiring a response), notices pertaining to the reduction, denial or termination of services or benefits, or the right to appeal such actions, and notices advising LEP persons of the availability of free language assistance.
  - b) If persons do not read the language that they speak, it may not be reasonable or effective to provide written materials in that language. It is recommended to provide LEP applicants/participants with both translations of the printed materials, English and the other language, because someone in the household or community may be able to help them understand the information. Consider other effective methods of communicating, such as reading the documents to them in English, having the interpreter read the translation to the participant, or have the participant/parent listen to an audio-tape or videotape recorded in the language that they speak.
3. The project must ensure that the interpreters and translators are trained and demonstrate competency. For more information, refer to the Guidance document at the end of the policy.
4. It is strongly recommended that if the participant caseload contains a substantial number of participants of diverse populations, every effort should be made to employ members of these populations to provide culturally appropriate services and meet language needs.



5. To ensure meaningful access, local projects shall ensure that resources are available to individuals with hearing, vision, or speech impairments. A reasonable effort must be made to provide the formats and devices that will work best for the WIC participant/parent. Local projects must provide “auxiliary aids,” assistive devices or other reasonable accommodations for the participant/parent with disabilities during the application process, in receipt of services, and in the processing of complaints or appeals.
  - a) For each applicant, it is required to enter physical challenge data into the ROSIE, as applicable.
  - b) Local projects shall accommodate the hearing disabled by contacting the Center for Deaf and Hard of Hearing to schedule a sign language interpreter. The cost of these services are billed from the Center for Deaf and Hard of Hearing and are paid by the State WIC Office. For more information, refer to the Guidance document at the end of the policy.
  - c) WIC Staff may use the Wisconsin Telecommunications Relay System for making appointments or communicating between appointments. The Relay System allows a telephone user who may be deaf, hard of hearing or speech impaired to call or be called by anyone using a voice telephone. Check your local telephone book or refer to the Guidance document at the end of the policy.
  - d) For those individuals who are visually impaired, provide materials in a format that allows accessibility to the information. Materials may be in large print, audio taped, translated into Braille, read to them or in another format that will assist the participant or parent with accessing the information.

## **F. DISCRIMINATION COMPLAINT PROCEDURE**

1. All complaints alleging discrimination on the basis of race, color, national origin, sex, or disability must be referred to United States Department of Agriculture (USDA). WIC and agency staff are prohibited from determining whether there is discrimination or if the complaint is a program matter. Staff are prohibited from processing and investigating discrimination complaints. Staff are prohibited from discouraging any individuals or groups in their efforts to file a complaint. If a complaint is anticipated, notify the State WIC Office.
2. A complainant may file a discrimination complaint with USDA in writing or verbally by telephoning. Refer complainants to the nondiscrimination statement





and procedure printed on all WIC materials and provide a copy of the Civil Rights Discrimination Complaint Form (DPH 40082/ DPH 40082S).

3. Any person alleging discrimination based on age, race, color, sex, national origin, or disability, has a right to file a complaint.
  - a) The complaint must be filed within 180 days of the alleged discriminatory incident
  - b) May be in writing or verbal.
    - (1) If a written complaint is received by a local WIC project that alleges discrimination based on race, color, national origin, or age, it must be sent to USDA at the Chicago office (preferred) or Washington, D.C. office. Regional Director, Civil Rights/EEO, USDA, Food and Nutrition Service, Midwest Regional Office, 77 West Jackson Blvd., 20<sup>th</sup> Floor, Chicago, IL 60604-3591. Or call (312)-353-3353. Local projects must send a copy of the discrimination complaint to the State WIC Office. Written complaints must be forwarded within 10 business days.
    - (2) All complaints received by the State WIC Office will be forwarded to Regional Director, Civil Rights/EEO, USDA Office in Chicago and to the Wisconsin Department of Health and Family Services Affirmative Action and Civil Rights Compliance Office within 10 business days.
    - (3) Verbal complaints may be made over the telephone by calling USDA. If a complaint is made in person and the person refuses or is not inclined to put the allegations in writing, a WIC staff person must write up the elements of the complaint for the complainant.
  - c) Anonymous complaints should be handled as any other discrimination complaint.
4. No person shall intimidate, threaten, retaliate, or discriminate against a person who has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to a discrimination complaint.
  - a) Examples of reprisal actions that are not allowed include: denial or termination of benefits after the complaint is filed, without appropriate cause, change of processing time or demands for additional non-essential documents; negative or hostile attitude toward individuals involved in the complaint; or disparaging remarks about the individuals.



5. The identity of complainants shall be kept confidential except to the extent necessary to participate with the investigation and/or hearing related to the complaint.

#### **G. PROHIBITED DISCRIMINATORY PRACTICES**

Discrimination is prohibited in all aspects of the delivery of WIC benefits. Some specific examples of discrimination and noncompliance are as follows:

1. Exclusion of eligible persons from participating in the WIC Program or the inequitable allocation of food benefits to eligible persons on the basis of age, race, color, sex, national origin, or disability
2. Issuance of food instruments in a place, time, or manner that results in, or has an effect of, denying or limiting the benefits on the basis of age, race, color, sex, national origin, or disability
3. Segregation of persons in a clinic waiting area or through the appointment system except to set aside specific clinic time or day to serve participants with special needs by having an interpreter available during those times
4. The selection of clinic locations for participation in WIC which has the effect of, or results in, limiting the availability of WIC benefits or services on basis of age, race, color, sex, national origin, or disability
5. Failure to apply the same eligibility criteria to all potential eligibles seeking participation in the Program, including certification of potential eligibles and placement on a waiting list on the basis of age, race, color, sex, national origin, or disability

#### **H. TRAINING**

1. Civil rights training is required for persons of all levels of administration of the WIC Program. Training must be part of new staff orientation. Train new staff before they begin to work independently or at least within the first 5 days of starting their new position. “Frontline staff” who interact with program applicants or participants, including sub-contracted staff, and those persons who supervise “frontline staff,” must be provided training annually.
2. Required topics include but are not limited to: collecting and using racial/ethnic data; effective public notification systems including outreach; complaint procedures; compliance review techniques; conflict resolution; revised civil



rights policies; requirements for reasonable accommodation of persons with disabilities; resolution of noncompliance (found during monitoring), including development of an action plan; requirements for language assistance; and customer service. Training on applicable civil rights laws, regulations and policies provide guidance to staff on applicants' rights to access the WIC and FMNP Program and assures them of fair and equal protection and treatment under the law. A presentation may address the general topics of race, color, national origin, sex, age and disability and may include discussions on ways to prevent discrimination practices in program services.

3. Topics related to national origin include Limited English Proficiency (LEP), translation, and interpretation. It may include training to ensure that staff understand LEP policies and procedures and how to work effectively with in-person and telephone interpreters and to understand the dynamics of interpretation between participants, staff and interpreters.
4. Other acceptable training topics include: sensitivity to persons with disabilities, sensitivity to cultural characteristics, diversity, specific cultural information and the discrimination components of Wisconsin Fair Employment Law. The topic of cultural competence would fall into the public notification and outreach areas above because training on this topic helps staff become more competent in outreaching to different racial and ethnic groups and to understand their health issues.
5. Maintain a training registry with the topic areas covered, the length of training, the presenter's name, dates, and signatures of employees who attended the training (sign-in log).

### **I. MONITORING**

1. The State WIC Office will monitor projects on this policy on a biennial basis using the WIC monitoring tools. Local WIC projects are responsible for monitoring their sub-contracts.
2. It is recommended that WIC Directors monitor this policy at least annually. Monitoring should include assessing the current composition of LEP and persons with hearing, vision or speech impairments in the WIC service area, the current communication needs of the WIC applicants and participants and whether the current assistance is meeting the needs of the WIC participants. Monitor whether sources of and arrangements for assistance are still current and viable for these persons. Monitor whether staff are knowledgeable about policies and procedures and how to implement them.



Sources of Information:

Department of Health and Family Services Affirmative Action and Civil Rights  
Compliance Office

Department of Workforce Development, Division of Workforce Solutions

United States Department of Agriculture

United States Department of Health and Human Services

**ATTACHMENTS**

Guidance